

1 AN ACT relating to retirement benefits for local elected officials and declaring an
2 emergency.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 61.637 is amended to read as follows:

- 5 (1) A retired member who is receiving monthly retirement payments under any of the
6 provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed
7 as an employee by a participating agency prior to August 1, 1998, shall have his
8 retirement payments suspended for the duration of reemployment. Monthly
9 payments shall not be suspended for a retired member who is reemployed if he
10 anticipates that he will receive less than the maximum permissible earnings as
11 provided by the Federal Social Security Act in compensation as a result of
12 reemployment during the calendar year. The payments shall be suspended at the
13 beginning of the month in which the reemployment occurs.
- 14 (2) Employer and employee contributions shall be made as provided in KRS 61.510 to
15 61.705 and 78.510 to 78.852 on the compensation paid during reemployment,
16 except where monthly payments were not suspended as provided in subsection (1) of
17 this section or would not increase the retired member's last monthly retirement
18 allowance by at least one dollar (\$1), and the member shall be credited with
19 additional service credit.
- 20 (3) In the month following the termination of reemployment, retirement allowance
21 payments shall be reinstated under the plan under which the member was receiving
22 payments prior to reemployment.
- 23 (4) (a) Notwithstanding the provisions of this section, the payments suspended in
24 accordance with subsection (1) of this section shall be paid retroactively to the
25 retired member, or his estate, if he does not receive more than the maximum
26 permissible earnings as provided by the Federal Social Security Act in
27 compensation from participating agencies during any calendar year of

1 reemployment.

2 (b) If the retired member is paid suspended payments retroactively in accordance
3 with this section, employee contributions deducted during his period of
4 reemployment, if any, shall be refunded to the retired employee, and no service
5 credit shall be earned for the period of reemployment.

6 (c) If the retired member is not eligible to be paid suspended payments for his
7 period of reemployment as an employee, his retirement allowance shall be
8 recomputed under the plan under which the member was receiving payments
9 prior to reemployment as follows:

10 1. The retired member's final compensation shall be recomputed using
11 creditable compensation for his period of reemployment; however, the
12 final compensation resulting from the recalculation shall not be less than
13 that of the member when his retirement allowance was last determined;

14 2. If the retired member initially retired on or subsequent to his normal
15 retirement date, his retirement allowance shall be recomputed by using
16 the formula in KRS 61.595(1);

17 3. If the retired member initially retired prior to his normal retirement date,
18 his retirement allowance shall be recomputed using the formula in KRS
19 61.595(2), except that the member's age used in computing benefits shall
20 be his age at the time of his initial retirement increased by the number of
21 months of service credit earned for service performed during
22 reemployment;

23 4. The retirement allowance payments resulting from the recomputation
24 under this subsection shall be payable in the month following the
25 termination of reemployment in lieu of payments under subparagraph 3.
26 The member shall not receive less in benefits as a result of the
27 recomputation than he was receiving prior to reemployment or would

1 receive as determined under KRS 61.691; and

2 5. Any retired member who was reemployed prior to March 26, 1974, shall
3 begin making contributions to the system in accordance with the
4 provisions of this section on the first day of the month following March
5 26, 1974.

6 (5) A retired member, or his estate, shall pay to the retirement fund the total amount of
7 payments which are not suspended in accordance with subsection (1) of this section
8 if the member received more than the maximum permissible earnings as provided by
9 the Federal Social Security Act in compensation from participating agencies during
10 any calendar year of reemployment, except the retired member or his estate may
11 repay the lesser of the total amount of payments which were not suspended or fifty
12 cents (\$.50) of each dollar earned over the maximum permissible earnings during
13 reemployment if under age sixty-five (65), or one dollar (\$1) for every three dollars
14 (\$3) earned if over age sixty-five (65).

15 (6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a
16 retired member who has been ordered reinstated by the Personnel Board under
17 authority of KRS 18A.095.

18 (b) A retired member who has been ordered reinstated by the Personnel Board
19 under authority of KRS 18A.095 or by court order or by order of the Human
20 Rights Commission and accepts employment by an agency participating in the
21 Kentucky Employees Retirement System or County Employees Retirement
22 System shall void his retirement by reimbursing the system in the full amount
23 of his retirement allowance payments received.

24 (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this
25 section shall no longer apply to a retired member who is reemployed in a
26 position covered by the same retirement system from which the member
27 retired. Reemployed retired members shall be treated as new members upon

1 reemployment. Any retired member whose reemployment date preceded
2 August 1, 1998, who does not elect, within sixty (60) days of notification by
3 the retirement systems, to remain under the provisions of subsections (1) to (4)
4 of this section shall be deemed to have elected to participate under this
5 subsection.

6 (b) A retired member whose disability retirement was discontinued pursuant to
7 KRS 61.615 and who is reemployed in one (1) of the systems administered by
8 the Kentucky Retirement Systems prior to his or her normal retirement date
9 shall have his or her accounts combined upon termination for determining
10 eligibility for benefits. If the member is eligible for retirement, the member's
11 service and creditable compensation earned as a result of his or her
12 reemployment shall be used in the calculation of benefits, except that the
13 member's final compensation shall not be less than the final compensation last
14 used in determining his or her retirement allowance. The member shall not
15 change beneficiary or payment option designations. This provision shall apply
16 to members reemployed on or after August 1, 1998.

17 (8) A retired member or his employer shall notify the retirement system if he has
18 accepted employment or is serving as a volunteer with an employer that participates
19 in the retirement system from which the member retired. The retired member and the
20 participating employer shall submit the information required or requested by the
21 systems to confirm the individual's employment or volunteer status.

22 (9) If the retired member is under a contract, the member shall submit a copy of that
23 contract to the retirement system, and the retirement system shall determine if the
24 member is an independent contractor for purposes of retirement benefits. The retired
25 member and the participating employer shall submit the information required or
26 requested by the systems to confirm the individual's employment or volunteer status.

27 (10) If a member is receiving a retirement allowance, or has filed the forms required for a

1 retirement allowance, and is employed within one (1) month of the member's initial
2 retirement date in a position that is required to participate in the same retirement
3 system from which the member retired, the member's retirement shall be voided and
4 the member shall repay to the retirement system all benefits received. The member
5 shall contribute to the member account established for him prior to his voided
6 retirement. The retirement allowance for which the member shall be eligible upon
7 retirement shall be determined by total service and creditable compensation.

8 (11) (a) If a member of the Kentucky Employees Retirement System retires from a
9 department which participates in more than one (1) retirement system and is
10 reemployed within one (1) month of his initial retirement date by the same
11 department in a position participating in another retirement system, the retired
12 member's retirement allowance shall be suspended for the first month of his
13 retirement and the member shall repay to the retirement system all benefits
14 received for the month.

15 (b) A retired member of the County Employees Retirement System who after
16 initial retirement is hired by the county from which the member retired shall be
17 considered to have been hired by the same employer.

18 (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a
19 nonhazardous member who retired prior to age sixty-five (65), is reemployed
20 within six (6) months of the member's termination by the same employer, the
21 member shall obtain from his previous and current employers a copy of the job
22 description established by the employers for the position and a statement of the
23 duties performed by the member for the position from which he retired and for
24 the position in which he has been reemployed.

25 (b) The job descriptions and statements of duties shall be filed with the retirement
26 office.

27 (13) If the retirement system determines that the retired member has been employed in a

1 position with the same principal duties as the position from which the member
2 retired:

- 3 (a) The member's retirement allowance shall be suspended during the period that
4 begins on the month in which the member is reemployed and ends six (6)
5 months after the member's termination;
- 6 (b) The retired member shall repay to the retirement system all benefits paid from
7 systems administered by Kentucky Retirement Systems under reciprocity,
8 including medical insurance benefits, that the member received after
9 reemployment began;
- 10 (c) Upon termination, or subsequent to expiration of the six (6) month period
11 from the date of termination, the retired member's retirement allowance based
12 on his initial retirement account shall no longer be suspended and the member
13 shall receive the amount to which he is entitled, including an increase as
14 provided by KRS 61.691;
- 15 (d) Except as provided in subsection (7) of this section, if the position in which a
16 retired member is employed after initial retirement is a regular full-time
17 position, the retired member shall contribute to a second member account
18 established for him in the retirement system. Service credit gained after the
19 member's date of reemployment shall be credited to the second member
20 account; and
- 21 (e) Upon termination, the retired member shall be entitled to benefits payable from
22 his second retirement account.
- 23 (14) (a) If the retirement system determines that the retired member has not been
24 reemployed in a position with the same principal duties as the position from
25 which he retired, the retired member shall continue to receive his retirement
26 allowance.
- 27 (b) If the position is a regular full-time position, the member shall contribute to a

1 second member account in the retirement system.

2 (15) (a) If a retired member is reemployed at least one (1) month after initial retirement
3 in a different position, or at least six (6) months after initial retirement in the
4 same position, and prior to normal retirement age, the retired member shall
5 contribute to a second member account in the retirement system and continue
6 to receive a retirement allowance from the first member account.

7 (b) Service credit gained after reemployment shall be credited to the second
8 member account. Upon termination, the retired member shall be entitled to
9 benefits payable from the second member account.

10 (16) A retired member who is reemployed and contributing to a second member account
11 shall not be eligible to purchase service credit under any of the provisions of KRS
12 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to
13 purchase prior to his initial retirement.

14 (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this
15 section, the following shall apply to retired members who are reemployed by an
16 agency participating in one (1) of the systems administered by Kentucky Retirement
17 Systems on or after September 1, 2008:

18 (a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is
19 receiving a retirement allowance from one (1) of the systems administered by
20 Kentucky Retirement Systems, or has filed the forms required to receive a
21 retirement allowance from one (1) of the systems administered by Kentucky
22 Retirement Systems, and is employed in a regular full-time position required to
23 participate in one (1) of the systems administered by Kentucky Retirement
24 Systems or is employed in a position that is not considered regular full-time
25 with an agency participating in one (1) of the systems administered by
26 Kentucky Retirement Systems within three (3) months following the member's
27 initial retirement date, the member's retirement shall be voided, and the

1 member shall repay to the retirement system all benefits received, including any
2 health insurance benefits. If the member is returning to work in a regular full-
3 time position required to participate in one (1) of the systems administered by
4 Kentucky Retirement Systems:

- 5 1. The member shall contribute to a member account established for him or
6 her in one (1) of the systems administered by Kentucky Retirement
7 Systems, and employer contributions shall be paid on behalf of the
8 member by the participating employer; and
- 9 2. Upon subsequent retirement, the member shall be eligible for a retirement
10 allowance based upon total service and creditable compensation,
11 including any additional service or creditable compensation earned after
12 his or her initial retirement was voided;

13 (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is
14 receiving a retirement allowance from one (1) of the systems administered by
15 Kentucky Retirement Systems and is employed in a regular full-time position
16 required to participate in one (1) of the systems administered by Kentucky
17 Retirement Systems after a three (3) month period following the member's
18 initial retirement date, the member may continue to receive his or her
19 retirement allowance during the period of reemployment subject to the
20 following provisions:

- 21 1. Both the employee and participating agency shall certify in writing on a
22 form prescribed by the board that no prearranged agreement existed
23 between the employee and agency prior to the employee's retirement for
24 the employee to return to work with the participating agency. If an
25 elected official is reelected to a new term of office in the same position
26 and retires following the election but prior to taking the new term of
27 office, he or she shall be deemed by the system as having a prearranged

- 1 agreement under the provisions of this subparagraph and shall have his or
2 her retirement voided. If the participating agency or employer fail to
3 complete the certification, the member's retirement shall be voided and
4 the provisions of paragraph (a) of this subsection shall apply to the
5 member and the employer;
- 6 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
7 the contrary, the member shall not contribute to the systems and shall not
8 earn any additional benefits for any work performed during the period of
9 reemployment;
- 10 3. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer
11 shall pay employer contributions as specified by KRS 61.565 and 61.702
12 on all creditable compensation earned by the employee during the period
13 of reemployment. The additional contributions paid shall be used to
14 reduce the unfunded actuarial liability of the systems; and
- 15 4. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer
16 shall be required to reimburse the systems for the cost of the health
17 insurance premium paid by the systems to provide coverage for the
18 retiree, not to exceed the cost of the single premium. Effective July 1,
19 2015, local school boards shall not be required to pay the reimbursement
20 required by this subparagraph for retirees employed by the board for
21 eighty (80) days or less during the fiscal year;
- 22 (c) If a member is receiving a retirement allowance from the State Police
23 Retirement System or from hazardous duty retirement coverage with the
24 Kentucky Employees Retirement System or the County Employees Retirement
25 System, or has filed the forms required to receive a retirement allowance from
26 the State Police Retirement System or from hazardous duty retirement
27 coverage with the Kentucky Employees Retirement System or the County

1 Employees Retirement System, and is employed in a regular full-time position
2 required to participate in the State Police Retirement System or in a hazardous
3 duty position with the Kentucky Employees Retirement System or the County
4 Employees Retirement System within one (1) month following the member's
5 initial retirement date, the member's retirement shall be voided, and the
6 member shall repay to the retirement system all benefits received, including any
7 health insurance benefits. If the member is returning to work in a regular full-
8 time position required to participate in one (1) of the systems administered by
9 Kentucky Retirement Systems:

- 10 1. The member shall contribute to a member account established for him or
11 her in one (1) of the systems administered by Kentucky Retirement
12 Systems, and employer contributions shall be paid on behalf of the
13 member by the participating employer; and
- 14 2. Upon subsequent retirement, the member shall be eligible for a retirement
15 allowance based upon total service and creditable compensation,
16 including any additional service or creditable compensation earned after
17 his or her initial retirement was voided;

18 (d) If a member is receiving a retirement allowance from the State Police
19 Retirement System or from hazardous duty retirement coverage with the
20 Kentucky Employees Retirement System or the County Employees Retirement
21 System and is employed in a regular full-time position required to participate in
22 the State Police Retirement System or in a hazardous duty position with the
23 Kentucky Employees Retirement System or the County Employees Retirement
24 System after a one (1) month period following the member's initial retirement
25 date, the member may continue to receive his or her retirement allowance
26 during the period of reemployment subject to the following provisions:

- 27 1. Both the employee and participating agency shall certify in writing on a

1 form prescribed by the board that no prearranged agreement existed
2 between the employee and agency prior to the employee's retirement for
3 the employee to return to work with the participating agency. If an
4 elected official is reelected to a new term of office in the same position
5 and retires following the election but prior to taking the new term of
6 office, he or she shall be deemed by the system as having a prearranged
7 agreement under the provisions of this subparagraph and shall have his or
8 her retirement voided. If the participating agency or employer fail to
9 complete the certification, the member's retirement shall be voided and
10 the provisions of paragraph (c) of this subsection shall apply to the
11 member and the employer;

12 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
13 the contrary, the member shall not contribute to the systems and shall not
14 earn any additional benefits for any work performed during the period of
15 reemployment;

16 3. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer
17 shall pay employer contributions as specified by KRS 61.565 and 61.702
18 on all creditable compensation earned by the employee during the period
19 of reemployment. The additional contributions paid shall be used to
20 reduce the unfunded actuarial liability of the systems; and

21 4. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer
22 shall be required to reimburse the systems for the cost of the health
23 insurance premium paid by the systems to provide coverage for the
24 retiree, not to exceed the cost of the single premium;

25 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member
26 who qualifies as a volunteer for an employer participating in one (1) of the
27 systems administered by Kentucky Retirement Systems and who is receiving

1 reimbursement of actual expenses, a nominal fee for his or her volunteer
2 services, or both, shall not be considered an employee of the participating
3 employer and shall not be subject to paragraphs (a) to (d) of this subsection if:

- 4 1. Prior to the retired member's most recent retirement date, he or she did
5 not receive creditable compensation from the participating employer in
6 which the retired member is performing volunteer services;
- 7 2. Any reimbursement or nominal fee received prior to the retired member's
8 most recent retirement date has not been credited as creditable
9 compensation to the member's account or utilized in the calculation of
10 the retired member's benefits;
- 11 3. The retired member has not purchased or received service credit under
12 any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for
13 service with the participating employer for which the retired member is
14 performing volunteer services; and
- 15 4. Other than the status of volunteer, the retired member does not become
16 an employee, leased employee, or independent contractor of the
17 employer for which he or she is performing volunteer services for a
18 period of at least twenty-four (24) months following the retired member's
19 most recent retirement date.

20 If a retired member, who provided volunteer services with a participating
21 employer under this paragraph violates any provision of this paragraph, then he
22 or she shall be deemed an employee of the participating employer as of the
23 date he or she began providing volunteer services and both the retired member
24 and the participating employer shall be subject to paragraphs (a) to (d) of this
25 subsection for the period of volunteer service; and

- 26 (f) Notwithstanding any provision of this section, any mayor or member of a city
27 legislative body who has not participated in the County Employees Retirement

1 System prior to retirement for his or her service as a mayor or member of a
 2 city legislative body, but who is otherwise eligible to retire from one (1) or
 3 more of the systems administered by Kentucky Retirement Systems[the
 4 ~~Kentucky Employees Retirement System or the State Police Retirement~~
 5 ~~System~~], shall not be:

- 6 1. Required to resign from his or her position as mayor or as a member of
 7 the city legislative body in order to begin drawing benefits from the
 8 Kentucky Employees Retirement System, the County Employees
 9 Retirement System, or the State Police Retirement System; or
- 10 2. Subject to any provision of this section as it relates solely to his or her
 11 service as a mayor or member of the city legislative body.

12 ➔Section 2. KRS 78.540 is amended to read as follows:

13 Membership in the system shall consist of the following:

- 14 (1) All persons who become employees of a participating county after the date the
 15 county first participates in the system, except that:

16 (a) Mayors and members of city legislative bodies may decline prior to their
 17 participation in the system with the city;

18 (b) In the event Kentucky Retirement Systems determines that a mayor or
 19 member of a city legislative body is required to participate in the County
 20 Employees Retirement System for his or her service to the city due to other
 21 covered employment in the County Employees Retirement System or due to
 22 failure to decline participation in the system as provided by paragraph (a) of
 23 this subsection, the mayor or member of the city legislative body may make
 24 an election to neither participate nor receive benefits from the County
 25 Employees Retirement System due to his or her service to the city as a
 26 mayor or member of a city legislative body. If a mayor or member of a city
 27 legislative body makes an election described by this paragraph:

1 1. He or she shall be deemed as declining participation with the city as
 2 provided by paragraph (a) of this subsection; and

3 2. No contributions shall be payable by the employee or employer for his
 4 or her service as a mayor or member of a city legislative body, and any
 5 contributions paid to the system shall be refunded; and

6 (c) City managers or other appointed local government executives who participate
 7 in a retirement system, other than Social Security, may decline prior to their
 8 participation in the system;

9 (2) (a) All persons who are employees of a county on the date the county first
 10 participates in the system, either in service or on authorized leave from service,
 11 and who elect within thirty (30) days next following the county's participation,
 12 or in the case of persons on authorized leave, within thirty (30) days of their
 13 return to active service, to become members and thereby agree to make
 14 contributions as provided in KRS 78.520 to 78.852;

15 (b) All persons who are employees of a county who did not elect to participate
 16 within thirty (30) days of the date the county first participated in the system or
 17 within thirty (30) days of their return to active service and who subsequently
 18 elect to participate the first day of a month after the county's date of
 19 participation;

20 (3) All persons who declined participation in subsection (1) of this section and who later
 21 elect to participate. Persons who elect to participate under this subsection may
 22 purchase service credit for any prior years by paying a delayed contribution payment,
 23 provided the person began participating in the system prior to January 1, 2014. The
 24 service shall not be included in the member's total service for purposes of
 25 determining benefits under KRS 61.702; and

26 (4) All persons electing coverage in the system under KRS 78.530(3)(d).

27 (5) The provisions of subsections (1) and (2) of this section notwithstanding, cities

1 which participate in the CERS and close existing local pension systems to new, or all
2 members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or 95.852 shall
3 not be required to provide membership in the County Employees Retirement System
4 to employees in any employee category not covered by a city pension system at the
5 date of participation.

6 (6) Membership in the system shall not include persons who are not eligible to
7 participate in the system as provided by KRS 61.522 or those employees who are
8 simultaneously participating in another state-administered defined benefit plan within
9 Kentucky other than those administered by the Kentucky Retirement Systems,
10 except for employees who have ceased to contribute to one (1) of the state-
11 administered retirement plans as provided in KRS 21.360.

12 ➔Section 3. Whereas ensuring continuity of elected officials in local governments
13 is important to the Commonwealth of Kentucky, an emergency is declared to exist, and
14 this Act takes effect upon its passage and approval by the Governor or upon it otherwise
15 becoming law.